

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HOUSEY PHARMACEUTICALS, INC., )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. 01-401-SLR  
 )  
ABBOTT PHARMACEUTICAL CORP., )  
et al., )  
 )  
Defendants. )

**MEMORANDUM ORDER**

At Wilmington this 20th day of June, 2002, having reviewed the papers submitted in connection with the motions to dismiss and for a protective order filed by defendants Otsuka America, Inc., Otsuka America Pharmaceutical, Inc., and Otsuka Maryland Research Institute, L.L.C.;

IT IS ORDERED that the motion to dismiss (D.I. 116) is granted in part and denied in part. Based on this court's reasoning in its memorandum opinion issued in related litigation, Bayer AG v. Housey Pharmaceuticals, Inc., No. 01-148-SLR (D. Del. Oct. 17, 2001), defendants' motion to dismiss plaintiff's infringement claim under 35 U.S.C. § 271(g) is granted. Although the court finds that plaintiff's two other allegations of infringement, under 35 U.S.C. §§ 271(a) and 271(b), lack sufficient factual support, plaintiff may either amend the

complaint or respond to pending interrogatories, **on or before July 8, 2002**, to provide more than conclusory allegations of infringement.

IT IS FURTHER ORDERED that, consistent with the above, defendants' motion for protective order (D.I. 170) is granted. Discovery as to these defendants is stayed pending further order of the court.

Sue L. Robinson  
United States District Judge